

ORAL ARGUMENT SCHEDULED FOR JANUARY 9, 2015

No. 11-1428
(Consolidated with 11-1441 and 12-1427)

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

DELTA CONSTRUCTION COMPANY, INC., et al.,

Petitioners,

v.

ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

On Appeal from the Environmental Protection Agency
EPA-76FR57106

**PETITIONER DELTA CONSTRUCTION COMPANY, INC., ET AL.'S,
REPLY TO PETITIONER POP DIESEL'S RESPONSE TO
SECOND MOTION TO SPLIT BRIEFING**

M. REED HOPPER,
D.C. Circuit Bar No. 44739
THEODORE HADZI-ANTICH
D.C. Circuit Bar No. 53056
Pacific Legal Foundation
930 G Street
Sacramento, California 95814
Telephone: (916) 419-7111
Facsimile: (916) 419-7747
E-mail: tha@pacificlegal.org

*Counsel for Petitioners
Delta Construction Company, Inc., et al.*

Delta Construction Company, Inc., et al. (“Delta Construction”), files this short reply to set the record straight with regard to the misrepresentations set forth in POP Diesel’s response to Delta Construction’s Second Motion To Split Briefing.

1. Delta Construction’s motion was necessary because communications between POP Diesel and Delta Construction (the “Joint Petitioners”) had deteriorated to such an extent that it was impossible for the Joint Petitioners to work together effectively to meet filing deadlines set by this Court.

2. The suggestion that Delta Construction had an ulterior motive for filing the motion is false and absurd.

3. Every statement made in the Second Motion to Split Briefing is true and accurate.

4. The reasons for filing the split briefing motion were independent of and unrelated to the reasons for filing the motion to reschedule oral argument.

5. To spare this Court from being subjected to recriminations of counsel, Delta Construction will refrain from responding in detail to each of the many false accusations and personal aspersions made by POP Diesel. Of course, if the Court would like a more detailed response, Delta Construction will provide it.

DATED: December 11, 2014.

Respectfully submitted,

M. REED HOPPER
THEODORE HAZDI-ANTICH

By s/THEODORE HADZI-ANTICH
THEODORE HADZI-ANTICH

Counsel for Petitioners
Delta Construction Company, Inc., et al.

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2014, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, to the following non-CM/ECF participants:

William H. Sorrell
Office of the Attorney General
State of Vermont
109 State Street
Montpelier, VT 05609-1001

s/THEODORE HADZI-ANTICH
THEODORE HADZI-ANTICH